

WISCONSIN STATE
LEGISLATURE
COMMITTEE HEARING
RECORDS

2005-06

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on
Education
(SC-Ed)**

File Naming Example:

Record of Comm. Proceedings ... RCP

- 05hr_AC-Ed_RCP_pt01a
- 05hr_AC-Ed_RCP_pt01b
- 05hr_AC-Ed_RCP_pt02

Published Documents

➤ Committee Hearings ... CH (Public Hearing Announcements)

➤ **

➤ Committee Reports ... CR

➤ **

➤ Executive Sessions ... ES

➤ **

➤ Record of Comm. Proceedings ... RCP

➤ **

*Information Collected For Or
Against Proposal*

➤ Appointments ... Appt

➤ **

➤ Clearinghouse Rules ... CRule

**

➤ Hearing Records ... HR (bills and resolutions)

➤ **05hr_ab0273_SC-Ed_pt01**

➤ Miscellaneous ... Misc

➤ **



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Dave Hansen, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. **Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006.** Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye _____ No X

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye _____ No X

STATE CAPITOL

P.O. Box 7882 • Madison, Wisconsin 53707-7882

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye X No

Assembly Bill 273:

Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

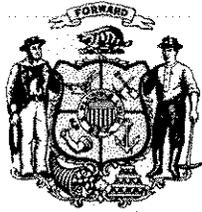
- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye X No

Signature



Senator Dave Hansen



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Jon Erpenbach, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye _____ No X

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye _____ No X

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye _____ No X

Assembly Bill 273:

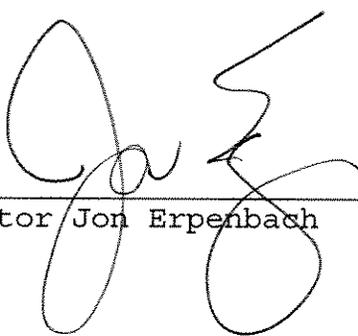
Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

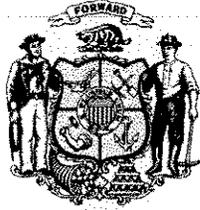
- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye X No _____

Signature _____



Senator Jon Erpenbach



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Bob Jauch, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye _____ No X

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye _____ No X

STATE CAPITOL

P.O. Box 7882 • Madison, Wisconsin 53707-7882

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye 2 No 1

Assembly Bill 273:

Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye X No 0

Signature



Senator Bob Jauch



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education

FR: Senator Glenn Grothman, Senate Committee on Education

DT: March 2, 2006

RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye No

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye No

STATE CAPITOL

P.O. Box 7882 • Madison, Wisconsin 53707-7882

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for **PASSAGE**:

Aye 1 No

Assembly Bill 273:

Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for **CONCURRENCE**:

Aye No

Signature _____

Senator Glenn Grothman



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Sheila Harsdorf, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye _____ No _____

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye _____ No _____

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye ✓ No

Assembly Bill 273:

Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye ✓ No

Signature

 Sheila Harsdorf
Senator Sheila Harsdorf



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Alberta Darling, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

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Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye X No

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye X No

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye X No

Assembly Bill 273:

Relating to: chaperoning pupils on school-sponsored trips

Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

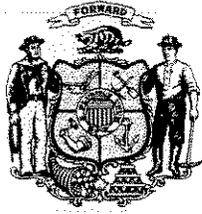
- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye X No

Signature



Senator Alberta Darling



Wisconsin State Legislature

MEMORANDUM

TO: Senator Luther Olsen, Chair, Senate Committee on Education
FR: Senator Luther Olsen, Chair, Senate Committee on Education
DT: March 2, 2006
RE: Paper Ballot for SB 628, SB 604, AB 273

Please consider the following items and vote on the motion below. Return this ballot to Senator Luther Olsen, Room 5 South, no later than 3:30pm, March 2, 2006. Committee members' ballots not received by the deadline will be marked as not voting.

Senate Bill 628:

Relating to: virtual charter schools

Introduced by Senators Olsen and Fitzgerald; cosponsored by Representatives Davis, Towns, Montgomery, Underheim, and Musser

- Moved by Senator Olsen that SENATE SUB AMENDMENT 1 be recommended for ADOPTION:

Aye _____ No _____

- Moved by Senator Olsen that SENATE BILL 628 be recommended for PASSAGE as amended:

Aye _____ No _____

Wisconsin State Senate

Senate Bill 604:

Relating to: statutory requirements for private schools

Introduced by Senators Harsdorf, Plale, and Grothman; cosponsored by Representatives Honadel, Musser, F. Lasee, Albers, Jeskewitz and Townsend

- Moved by Senator Olsen that SENATE BILL 604 be recommended for PASSAGE:

Aye _____ No _____

Assembly Bill 273:

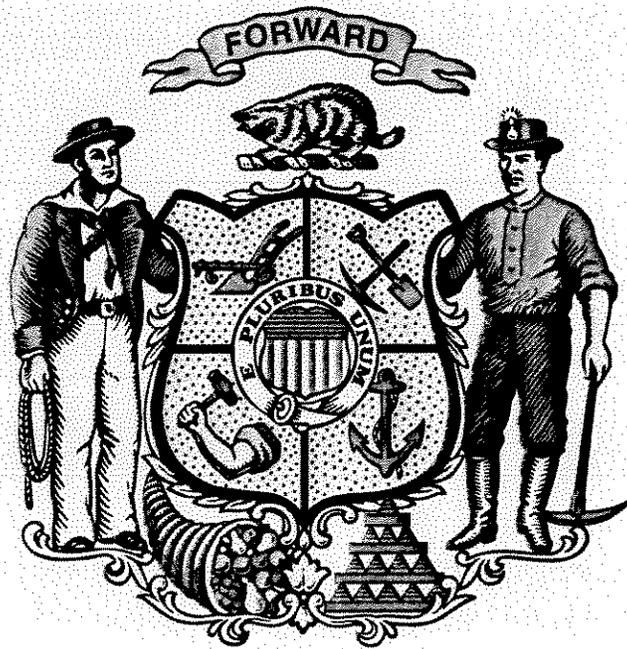
Relating to: chaperoning pupils on school-sponsored trips

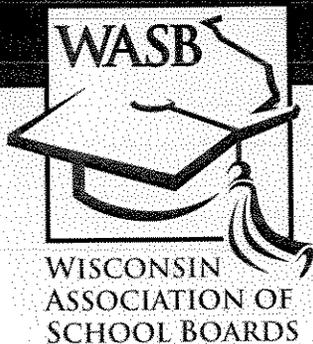
Introduced by Representatives Berceau, Gunderson, Jensen, Albers, Jeskewitz, Lehman, Gronemus, Cullen, Sheridan, Musser, Black, Molepske, Travis and Seidel

- Moved by Senator Olsen that ASSEMBLY BILL 273 be recommended for CONCURRENCE:

Aye _____ No _____

Signature _____
Senator Luther Olsen





122 W. WASHINGTON AVENUE, MADISON, WI 53703
PHONE: 608-257-2622 • FAX: 608-257-8386

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

TO: Senate Education Committee

FROM: Sheri Krause, Legislative Services Coordinator

DATE: March 1, 2006

RE: Assembly Bill 273, chaperoning pupils on school-sponsored trips.

The Wisconsin Association of School Boards (WASB) has not taken a position on AB 273. The purpose of this memo is to provide background information.

AB 273 would allow district employees to accept free or reduced-price travel or accommodations for the purpose of chaperoning pupils on a trip that is developed and sponsored by the school district. The WASB contends this is already legal under current law, so long as the employee does not represent the district in negotiating or soliciting the benefit from a third party vendor.

Wis. Stat. 118.12(2)(a) states: "No school district employee may receive for his or her personal benefit anything of value from any person other than his or her employing school district to sell, promote the sale of or act as an agent or solicitor for the sale of any goods or services to any public school pupil while on the property of his or her employing school district or at an activity of his or her employing school district."
(*Emphasis added*)

A legal comment entitled "Employee Conflicts of Interest" drafted by Lathrop & Clark LLP for the May 2003 edition of the *Wisconsin School News* magazine addresses this issue and is attached. In summary, "School district employees must avoid obtaining any personal gain or benefit from activities involving public school students while on school district property or involved in school-related activities, unless the benefit is provided directly by the school district."

As long as this proposal is restricted to school-sponsored events, the WASB has every confidence local school boards can continue to effectively manage this issue.

by Lathrop & Clark LLP

Employee Conflicts of Interest

A school district employee who sells goods or services to students on school property has conflicting interests between his or her role as a teacher versus that of a solicitor of compensation or benefits for personal gain. School district employees are prohibited by state law from receiving anything of personal value that results from selling, soliciting, or promoting the sale of any goods or services to public school students while on school property or at school-sponsored events. However, school boards often identify a variety of third-party sponsored activities or solicitations that are beneficial to students, such as book clubs or band trips.

In order for school boards to develop written policies governing the sale and promotion of goods and services on school district property, it is important to understand the statutory prohibition against employee solicitation or sale of such goods and services. This Legal Comment provides a discussion of the general prohibition against an employee's sale of goods and services to students at school.¹

State Law

State law provides the following:

No school district employee

may receive for his or her personal benefit anything of value from any person other than his or her employing school district to sell, promote the sale of or act as an agent or solicitor for the sale of any goods or services to any public school pupil while on the property of his or her employing school district or at an activity of his or her employing school district.²

This general prohibition also applies to employees of the Cooperative Educational Service Agencies (CESAs), including not only solicitation for the sale of goods on the property or activity of their employing agency, but, also, while on the property or at an activity of any school district in the agency.³

Discussion

The law may be characterized as consisting of five elements for the purpose of analyzing prohibited employee activities. That is, a school district employee may not (1) receive anything of personal value, (2) from an individual or organization other than the school district itself, (3) for selling or promoting goods and/or services, (4) to school district students, (5) while on school district property

or at an activity sponsored by the school district. Each of these elements must be present in order for a violation of the statutory prohibition to occur.

The types of prohibited items that are of personal value to an employee include gifts, benefits, or compensation that is either in the form of money or some other form. For instance, a high school band director who recruits students while at school to take part in a trip to Pasadena to play in the Rose Bowl Parade and who then accepts free airfare and hotel accommodations directly from the Rose Bowl officials to support the cost of his or her participation is violating the statute. The fact that the band director is acting as a solicitor for the sale of the trip to the students and receives a personal benefit from the sales directly from the trip sponsors violates the law.

District-sponsored book clubs provide an example of how to avoid violating the law. District-sponsored book clubs often represent commercial relationships between the school district and the book vendor. A district policy that provides for all the incentives or "points" garnered by the sale of the books to go directly to the school and not to any individual teacher

avoids the prohibitions of the law while allowing teachers to encourage the involvement of the students in the book sales.

An employee, however, may receive a benefit from the sale of goods or services if the benefit is provided directly to the employee by the school district. To avoid entanglement with the legal prohibition, the school district should stand in the position of negotiating any and all benefits from third party vendors who wish to sell or promote goods or services at school to students. For instance, a school district may, first, negotiate payment of a voucher for a predetermined value from a third party vendor for promoting the participation of students on a band trip. Then, subsequently, the school district administration may recruit a teacher by providing him or her with the voucher payment as an incentive for promoting the trip to the students.

Caution is required when such arrangements are made. The teacher may not serve in the capacity as an agent or solicitor in the design or negotiation of the benefits that will accrue to the school district by entering into a relationship with a third party vendor. For instance, a teacher may not negotiate the terms of a voucher payment, which a vendor then provides directly to the school district that, in turn, gives it to the teacher for his or her participation in the promotion and sale of the product or service. If a teacher negotiates a benefit or compensation in such arrangements, he or she may not benefit from it directly or indirectly. The school district must be the agent who negotiates with the third party vendor and decides who will benefit from such arrangements.

A violation of the law requires that the sale or solicitation of goods or services be directed at the students in the school district. However, in the absence of a district policy to the contrary, it is lawful for an employee to receive personal compensation or benefits for selling goods on school property if the sale is directed at other school district employees, board members, or other representatives of the school district.

Penalties

In the event that section 118.12(2) is violated, the offending school district employee will be subject to a forfeiture of not more than \$200 for each offense. The school board president will have the responsibility of prosecuting an action for the recovery of the forfeiture⁴ and must do so in conjunction with the State of Wisconsin through the attorney general's office.

Other Considerations

Except for the prohibitions against employee sales described above, any person may sell or promote the sale of goods or services on school district or CESA property. However, state law provides that a school district may adopt written resolutions or policies that prohibit, restrict, or provide guidelines for the sale and promotion of goods and services on school district property.⁵ Without policies in place limiting sales and promotions on school property, all sales and promotions are generally authorized. Events, therefore, that are typically sponsored by the school district as part of its regular community or educational program could inadvertently result in a violation of the statute.

In developing a policy to permit, restrict, or prohibit sales

generally on school property, the school board should consider the following four topics.

First, determine the purpose for which sales will be permitted, e.g., for educational or instructional purposes, or the commercial sale of school products. Second, identify the type or kind of products or services that may be sold or promoted, or, alternatively, restricted or prohibited, e.g., the sale of instructional materials or supplies versus a prohibition against the sale of candy or promotions sponsored by cigarette companies.

Third, consider the individuals or type of groups or organizations that will be permitted to sell products on school property, e.g., parent organizations, non-profit and for-profit groups, and student groups. School boards should bear in mind the requirement that policies may not discriminate against selected groups, such that the policies must be view-point neutral and avoid singling out a particular group whose ideology, political views, or religious views may not be supported by individual board members. Fourth, consider the conditions under which the district will allow sales and promotions, e.g., time of day; sales targeting instructional versus extracurricular activities; and the nature of the promotional materials, e.g., written (flyers or posters), oral, vending machines, or e-mail solicitations.

Summary

School district employees must avoid obtaining any personal gain or benefit from activities involving public school students while on school district property or involved in school-related activities, unless the benefit is provided

This Legal Comment is designed to provide authoritative general information, with commentary, as a service to WVASB members. It should not be relied upon as legal advice. If required, legal advice regarding this topic should be obtained from district legal counsel.

directly by the school district. School officials are encouraged to scrutinize any instances where employees solicit students on school property (or at school activities) for any promotion that results in the employee receiving anything of value from other than the school district.

Finally, school boards can avoid violations of the law and provide guidance for monitoring such activities by reviewing or developing written policies that govern the sale and promotion of goods and services at school. School board members should be mindful that the revision or development of these policies may need to be harmonized with other board policies, such as student fundraising activi-

ties, community use of facilities, advertising in the school, and the use of the school logo. ▀

References

- * This *Legal Comment* was written by Michael J. Julka and Joanne Harmon Curry of Lathrop & Clark LLP, WASB Legal Counsel.
- 1. For additional information on this topic, see *The Focus*, "Sales on School Property: To Permit, Restrict or Prohibit?" (WASB, April 1986).
- 2. Wis. Stat. § 118.12(2)(a).
- 3. *Id.* § 118.12(2)(b).
- 4. *Id.* § 120.15(4).
- 5. *Id.* § 118.12(1)(b).